

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.2339 of 1998

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For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

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GUJARAT STATE MACHINE TOOLS CORPORATION LTD.

Versus

JAYENDRASINGH ANIRUDHSINH JADEJA

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Appearance:

MR MANISH R BHATT for Petitioner

MR TR MISHRA for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/11/98

ORAL JUDGEMENT :

Rule.

2. Heard the learned counsel for the parties. The respondent workman raised an industrial dispute with respect to his removal from his service which culminated into a reference to the Labour Court, Bhavnagar. The case of the petitioner company is that the workman

remained absent; in spite of repeated notices, he did not turn up; in fact he was never removed from service. However, on appreciation of evidence the labour court found it to be a case of termination. In view of this an award has been made to reinstate him with 75 per cent back wages.

3. It is contended by Shri M.R. Bhatt, learned advocate for the petitioner that the respondent workman did not appear in spite of repeated notices. He has invited my attention to the chart at page 22 of the paper book showing his regular absence. On the other hand it is stated by Shri Mishra, learned advocate for the respondent workman, that the respondent could not report for duty on account of his serious heart ailment.

4. It appears that the workman was given notices on various dates, i.e. 23.12.198, 2.1.89, 11.1.89, 31.1.89, 7.2.89, 27.2.89, 13.3.89, and 17.5.89, in writing, as well by public notice, etc. These aspects have not been properly appreciated by the Labour Court. In my view, thus, the respondent workman is not entitled to back wages.

5. In view of this, this Special Civil Application is allowed partly. The direction to pay 75 per cent of the back wages is quashed and set aside. The award with respect to reinstatement remains intact. It is made clear that the respondent workman shall be entitled to full salary from the date of publication of the award. Rule is made partly absolute to the aforesaid extent. No order as to costs.

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